

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RICHARD L. MATHIEU, as
Litigation Guardian Ad Litem for
T.P.S., a minor and MICHELLE C.
PIERRE, individually and as parent of
T.P.S, a minor,

Plaintiffs,

vs.

THE UNITED STATES OF
AMERICA,

Defendants.

NO. CV-11-3117-LRS

**STIPULATED PROTECTIVE
ORDER RE: CONFIDENTIAL
PERSONAL, EDUCATIONAL,
JUVENILE & PRIVACY ACT
INFORMATION**

To expedite the flow of discovery material between the parties, and facilitate the prompt resolution of disputes over confidentiality, and adequately protect individually identifiable privacy interests in personnel records, juvenile records, education records, health information and such other protectable privacy information which is entitled to be kept confidential, and to ensure that protection is afforded only to material so entitled, it is, pursuant to the court's authority under Fed. R. Civ. P. 26(c) and with the consent of the parties, the following Protective Order will apply to appropriate records and information within student, investigative, personnel and other files or records produced by the United States in its discovery disclosures and responses:

1. This Stipulated Protective Order ("Protective Order") shall govern the treatment and handling of all student and academic records, personnel records, and investigative records, which may include juvenile records, as well health care information, which records and information are designated by the parties and/or by the Court as *confidential*, including, but not limited to the personnel, supervisor and investigative files of the Bureau of Indian Affairs, Department of Interior, the Department of Health and Human Services, and the Confederated Tribes of the

1 Colville Reservation, and Colville Tribal Police and Paschal Sherman Indian
2 School, as they relate to the allegations contained in Plaintiffs' Complaint.
3

4 2. Defendant United States may designate additional documents as
5 "confidential" and thus subject those records to the terms of this Protective Order
6 by fixing a notation to such documents, materials or information, or by other
7 appropriate written notice to plaintiff's attorney. Defendants may designate
8 "**CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER**" the referenced
9 student, investigative, health care, and/or personnel records, and any other materials
10 or information that they believe contain confidential information.

11 3. Testimony taken in deposition in this case similarly may be designated
12 as confidential and made subject to the terms of this Order at the time of the record.
13

14 4. Either party may move the court for determination of confidentiality if
15 the parties are unable to resolve a dispute regarding defendants' determination of
16 confidentiality. No disclosure shall be made of any information designated as
17 confidential except as provided herein and until such time as the matter is resolved
18 by the court.

19 5. Documents, materials, or information designated confidential pursuant
20 to this Protective Order shall not be disclosed or disseminated by plaintiffs or
21 plaintiffs' attorney Vito de la Cruz or by the associated law firm, or to any other
22 person or entity, with the following exception:

23 a. Use of such confidential documents, materials, or information
24 for trial preparation by paralegal or secretarial staff of plaintiff's attorney is
25 allowed by this Protective Order, subject to all conditions of this Protective
26 Order which govern plaintiff's attorney's use of such confidential
27 information;
28

29 b. Documents, materials or information designated by defendant
30 as confidential may be provided to expert witnesses, or consultants by
31 plaintiff's attorney provided such expert witness or consultants, before being
32 allowed to see any confidential documents, materials, or information, in
33 writing acknowledge receipt of a copy of this Protective Order and agree to
34 be bound by the terms of this Protective Order. The prohibition of this

1 paragraph shall apply in all circumstances, including, but not limited to,
2 deposition in this case.
3

4 6. All summaries and exhibits prepared from confidential information
5 shall be stamped "***CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER***"
6 by counsel causing them to be prepared.

7
8 7. All persons having access to confidential information made available
9 pursuant to this agreement shall agree not to make any use of said confidential
10 information except in connection with the above-captioned litigation and shall
11 further agree not to deliver or transfer said confidential information to any person
12 not previously authorized by the terms herein.

13 8. Counsel disclosing confidential information to any person or entity
14 shall be responsible for limiting distribution of the confidential information to those
15 persons who both (1) have a need to know the information and (2) are authorized to
16 receive the information under this Protective Order. Counsel shall be prepared to
17 account for the disposition and use of the information under this Protective Order.

18 9. All copies of confidential information disclosed under this agreement
19 shall be subject to the same restrictions as imposed on the original information.
20

21 10. All documents, materials, and information designated as confidential
22 and disclosed to any person pursuant to this Protective Order shall remain in the
23 possession only of plaintiff's attorney or the experts or consultants to whom they
24 are disclosed as provided by the Protective Order. Plaintiff may not retain any
25 documents, materials, or information designated as confidential pursuant to this
26 Protective Order after the conclusion of this litigation or the trial of this case,
27 whichever comes first.

28 11. Upon completion of this litigation, all documents and materials
29 designated confidential and all copies thereof shall be returned to Defendants by
30 Plaintiff's attorneys.

31 12. Documents, materials, and information designated as confidential
32 pursuant to this Order may be disclosed in regular proceedings of this Court,
33 subject to approval by defendant's attorneys or by the following method in absence
34

1 of approvals: If the documents, materials, or information designated confidential
2 are made exhibits in this case or are incorporated into any pleadings or documents
3 filed on behalf of plaintiff with the Court, such exhibits or pleadings shall be (a)
4 bound separately and (b) placed in a sealed envelope or other appropriately sealed
5 contained on which shall be endorsed:

6 This envelope is sealed pursuant to the Stipulated Protective Order,
7 dated May 14, 2012, and contained confidential information filed in
8 these proceedings. It is not to be opened or the contents thereof
9 displayed or revealed except to the court and persons authorized by
10 the court.
11

12 If the designated Confidential Information appears in any transcription filed with
13 the Court, such transcription shall be (a) bound separately, and (b) placed in a
14 sealed envelope or other appropriately sealed container which bears the foregoing
15 endorsement.

16 13. No confidential documents, materials, or information shall be used at
17 trial, except as provided by further order of the Court. Any party may apply to this
18 Court for additional protection regarding any discovery in this case.
19

20 14. No modification or amendment of this Protective Order is permitted
21 except by a writing signed by counsel for the parties and approved by the Court.
22 The parties hereto agree that it is unreasonable to rely on any oral modification or
23 amendment of this agreement.
24

25 15. The failure to insist upon full compliance with any of the terms of the
26 Protective Order in any instance shall not be deemed to be a waiver of the right to
27 insist upon full compliance with those terms thereafter.

28 16. By executing this Protective Order, the parties and their respective
29 counsel certify that prior to the disclosure of any confidential information as
30 provided herein, the proposed recipient of the information will be first provided a
31 copy of this Protective Order and required to execute a verification in the form
32 attached hereto as Exhibit A.
33
34

DONE IN OPEN COURT this 14th day of May 2012.

The Honorable Lonny R. Suko
United States District Court Judge
Eastern District of Washington